In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 567

INEZ TYLER BELLINGER MUTCHERSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner was convicted after a non-jury trial in the United States District Court for the Northern District of Georgia of having engaged in the business of wagering without having registered and paid the special tax. She was sentenced to imprisonment for one year and fined $5,000 (R. 223-224). The court of appeals affirmed the conviction (Pet. App. A).

The sole issue raised is the sufficiency of the affidavits for a search warrant under which certain items associated with a bolita operation were taken

from petitioner's premises. The affidavits by internal revenue agents recited that petitioner's former husband had been known as the "king" of bolita in the Savannah area; that one of the agents had received numerous reports that petitioner was continuing the business since his death; and that she and her present husband had been arrested by state officers on bolita charges, the latest in May, 1964. The affidavits further stated that state officers who had conducted a raid had advised the agents that the bolita business was conducted on the second floor of the described building; that in 1961 petitioner and her present husband had been advised of the federal law respecting the tax on wagers and each had acknowledged awareness of the requirements; that the premises at issue were placed under surveillance in September and October, 1964, and a number of persons, including a convicted Bolita writer, were seen to enter with packages or a money bag (R. 186-202); that a special agent who placed bolita bets saw persons with whom he had placed the bets enter the premises; that one such person told him he was writing bets for petitioner (R. 203-208); and that one bet was placed with petitioner's husband as he left the premises under surveillance (R. 203). The affidavits also recited that a search of the records revealed no registration by petitioner or her husband, and no registration by anyone for the premises involved (R. 193).

The affidavits, which set forth detailed facts corroborating the general information that petitioner was engaging in the bolita business, were clearly suf-

ficient under *United States* v. *Ventresca*, 380 U.S. 102.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

RALPH S. SPRITZER,
Acting Solicitor General.

FRED M. VINSON, JR.,
Assistant Attorney General.

BEATRICE ROSENBERG,
Attorney.

SEPTEMBER 1967.

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PER CURIAM

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967.

DeCESARE ET AL. *v.* UNITED STATES.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT.

No. 11. Decided March 4, 1968.*

PER CURIAM.

The petitions for writs of certiorari are granted, the judgments of the courts below are vacated, and the cases are remanded for further consideration in the light of *Marchetti* v. *United States,* 390 U. S. 39. See also 28 U. S. C. § 2106 and *Grosso* v. *United States,* 390 U. S. 62.

MR. JUSTICE MARSHALL took no part in the consideration or decision of Nos. 11, 17, 19, 24, 30, and 45.

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*Together with No. 17, *Butler* v. *United States;* No. 19, *Brazzell et al.* v. *United States;* No. 24, *Rosenzweig* v. *United States;* No. 30, *Augello, etc.* v. *United States;* No. 45, *Ginnaro* v. *United States;* and No. 567, *Mutcherson* v. *United States,* all on petitions for certiorari. Nos. 17, 19, and 567 are to the Court of Appeals for the Fifth Circuit, No. 24 to the Second Circuit, No. 30 to the Third Circuit, and No. 45 to the Eighth Circuit.